

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SAMUEL CLIFFORD BAILEY,
Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

SAMUEL CLIFFORD BAILEY,

Respondent-Appellant.

UNPUBLISHED

May 12, 2009

No. 284384

Wayne Circuit Court

Family Division

LC No. 06-462088

Before: Sawyer, P.J., and Murray and Stephens, JJ

STEPHENS, J. (*dissenting*).

I would vacate the order of restitution and remand for further proceedings.

In this case, the victim lost various items, including a collection of rare and vintage currency. The hearing focused on the value of the lost currency. The prosecutor offered the victim's testimony and offered numerous exhibits addressing the value of collector currency. The defense objected to the exhibits and conducted a vigorous cross-examination of the victim. During that cross-examination the victim acknowledged that her lost currency was circulated and frequently handled. She also agreed that it was of "average" quality. After the hearing, the trial court acknowledged that it was "not able to determine what the amount of that value is." However, the court placed a value of \$5,000 on the lost coins, "based on the fact that . . . some of these coins may have had value." The court further stated, "Yet I still feel that the respondent to this crime should carry a burden because he had no right to deprive her of these coins in the first place. So for him to walk scott free doesn't make sense to me either. So I'll split the loaf and I'll place a restitution value on the coins that have been testified to." Because the evidence was insufficient to establish the actual value of the victim's loss, the trial court abused its discretion in ordering \$5,000 in restitution.

/s/ Cynthia Diane Stephens